

**COMMITTEE AMENDMENT FORM**

**DATE 03/09/10**

**COMMITTEE PUBLIC SAFETY AND  
LEGAL ADMINISTRATION**

**PAGE(S) 2**

**ORDINANCE I.D.#**

**SECTION(S) 8<sup>th</sup> "WHEREAS"**

**RESOLUTION I.D.# 10-R-0494**

**PARAGRAPH(S) 4**

**AMENDMENT: AMENDS THE LEGISLATION BY CHANGING THE WORD IN THE  
FOURTH CLAUSE OF THE 8<sup>TH</sup> "WHEREAS" FROM "COOPERATE" TO  
"CONSULT".**

**AN AMENDED RESOLUTION  
BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO SETTLE THE CASE STYLED "CITY OF COLLEGE PARK AND CHARLES E. PHILLIPS, SR., PLAINTIFFS, V. CITY OF ATLANTA AND SHIRLEY FRANKLIN, IN HER OFFICIAL CAPACITY AS MAYOR OF THE CITY OF ATLANTA, DEFENDANTS"; IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION; CIVIL ACTION FILE NO. 1: 08-CV-1464"; AND FOR OTHER PURPOSES.**

**WHEREAS**, on April 18, 2008, College Park ("College Park") and Charles Phillips (collectively, "Plaintiffs") filed a lawsuit ("Lawsuit") against the City of Atlanta ("Atlanta") and former Mayor Franklin (collectively, "Defendants") styled: "City Of College Park and Charles E. Phillips, Sr., Plaintiffs, v. City Of Atlanta and Shirley Franklin, in her official capacity as Mayor Of the City of Atlanta, Defendants"; In the United States District Court for the Northern District of Georgia, Atlanta Division; Civil Action File No. 1: 08-CV-1464"; and

**WHEREAS**, Plaintiffs alleged in the Lawsuit that, over the last 45 years, Atlanta's acquisition of properties in College Park upon which voters resided, the relocation of such voters and Atlanta's demolition of structures on such properties were void because Atlanta failed to pre-clear such acquisitions under the Federal Voting Rights Act of 1965; and

**WHEREAS**, Plaintiffs' impetus for filing the Lawsuit appears to have been Atlanta's acquisition of the Wynterbrook Apartments on April 18, 2008; and

**WHEREAS**, after Plaintiffs filed the Lawsuit, the Court issued an injunction preventing Atlanta from demolishing Wynterbrook Apartments or acquiring any additional properties in College Park; and

**WHEREAS**, on March 31, 2009, the Court issued an Order and Opinion and Judgment in the Lawsuit, finding in favor of Defendants, dismissing the Lawsuit and dissolving the previously issued injunction; and

**WHEREAS**, Plaintiffs subsequently appealed the Court's Judgment in Defendant's favor to the United States Court of Appeals for the Eleventh Circuit, which appeal is still pending; and

**WHEREAS**, the parties were ordered to mediate their disputes by the Eleventh Circuit Court of Appeals and, over the last several months, have reached an agreement to settle the case and resolve two related Georgia State Court lawsuits by executing of a Consent Order under which Plaintiffs would forego any further prosecution of the Lawsuit, dismiss the related Georgia State Court lawsuits and allow for the prompt demolition of the Wynterbrook Apartments; and

**WHEREAS**, in consideration of Plaintiffs' dismissal of the Lawsuit and the related Georgia State Court lawsuits and the issuance by College Park of appropriate permits for Atlanta to demolish the Wynterbrook Apartments, the Consent Order will require Atlanta, through its Department of Aviation ("DOA"), to:

1. allow one College Park representative to attend DOA planning meetings;
2. provide College Park with additional advanced notice of proposed actions by the DOA that might materially affect the interests of College Park;
3. modify its current Airport Noise Compatibility Program to exclude Atlanta's potential acquisition of certain apartment complexes in College Park, except the Clubhouse Apartments;
4. consult with College Park in making determinations as to which College Park properties will receive noise mitigation;
5. discuss the possibility of payments in lieu of taxes by the DOA when it acquires College Park property that, in the hands of Atlanta, would be exempt from ad valorem taxes (subject to further legislative approval by the City of Atlanta's Council); and
6. allow College Park an option to purchase (subject to the further legislative approval by the City of Atlanta's Council) the Wynterbrook Apartments site at its fair market value, as determined by an appraisal process detailed in the Consent Order.

**WHEREAS**, the City Attorney, after consulting with the Aviation General Manager, has determined that it is desirable and in Atlanta's best interest to settle this case as described in this resolution.

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of Atlanta that the City Attorney or other appropriate representative of the City's Law Department are each authorized to execute the Consent Order, on the terms and conditions contained in this resolution, and any other necessary documents and/or pleadings required to settle the Lawsuit.

**BE IT FURTHER RESOLVED**, that the Consent Order and any other necessary documents and/or pleadings required to settle the Lawsuit will not be effective until each has been executed by the City Attorney or other appropriate representative of the City's Law Department and delivered to Plaintiffs.

A RESOLUTION BY PUBLIC SAFETY AND LEGAL ADMINISTRATION  
COMMITTEE

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